FILED
JUNE 1 1990
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ERWIN RAUTENBERG, et al.,	)	No. 90-70177
	)	
Petitioners,	)	D.C. No. CV-81-4103-RAG
vs.	)	Central California
UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA,	)	ORDER UNDER SEAL
Respondent,	)	
and	)	
UNITED STATES OF AMERICA, et al.,	)	
Real Parties in Interest.	)	

Before: CANBY, WIGGINS and BRUNETTI, Circuit Judges

The petition for writ of mandamus is granted unless, within thirty days from the date of this order,

the government submits to the district court, with a copy to this Court, a certification supporting a claim of state secrets as prescribed by U.S. v. Reynolds, 345 U.S. 1, 7-8 (1952). If the government submits such a certification within the prescribed time, the district court shall rule forthwith on the government's claim of state secrets and on the continuing validity of the amended protective order. The government shall notify this court in writing, under seal, of the district court's ruling, at which time this court will dispose of the petition for writ of mandamus. This panel will retain jurisdiction.

This order shall be filed under seal, and counsel for petitioners shall not reveal this order or its contents to anyone not a party to this litigation.

APPENDIX A

APPENDIX B

B1

[TO BE FILED UNDER SEAL]

FILED
AUG 21 199
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

AIR-SEA FORWARDERS, INC. Plaintiff, v. AIR ASIA COMPANY, LIMITED, et al., Defendants.	Civil Action No. 81-4103 (RAG) (Px) ORDER RE STATE SECRETS PRIVILEGE FILED IN CAMERA AND UNDER SEAL

APPENDIX B

HAVING CONDUCTED an in camera, ex parte review of the two classified declarations (the "Classified Declarations") that the United States has submitted in support of its claim of state secrets privilege, i.e., the classified declaration of

and the classified declaration of an unnamed official of the United States; and

HAVING REVIEWED, in addition to the foregoing declarations, the following materials:

a. the memoranda of law submitted by the United States in support of its claim of state secrets privilege and the unclassified declaration of

submitted in support thereof;

b. the memorandum of law submitted by plaintiff in opposition to the aforementioned claim of privilege;

c. the ex parte application of plaintiff for leave to review the Classified Declarations; and

the protective order issued in this action on or about November 21, 1985 (the "Protective Order)"; and

HAVING HEARD the arguments of plaintiff and of the united States at a hearing held on July 27, 1990,

IT IS BY THE COURT this 20 day of August, 1990 ordered as follows:

1. The claim of state secrets privilege of the United States is hereby upheld. The privilege shall extend to those matters identified in the Classified Declarations as requiring the protection of the privilege.

2. The ex parte application of plaintiff for leave to review the Classified Declarations is hereby denied.

3. The terms of the Protective Order are hereby adjudged to be no more restrictive than necessary to protect the information covered by the claim of state secrets privilege upheld hereby.

4. This order shall be filed under seal.

/s/ Richard A. Gadbois, Jr.
RICHARD A. GADBOIS
United States District Judge

Presented by:

/s/ Raphael O. Gomez
RAPHAEL O. GOMEZ
Attorney, Department of Justice
Civil Division, Room 3716
Washington, D.C. 20533
(202) 514-1318

CERTIFICATE OF SERVICE

I hereby certify that copies of the United States' Proposed Order Re: States Secrets Privilege to be filed in camera and under seal were served by Air Borne Express mail, postage prepaid on this 9th day of August 1990 to the following:

Matthew S. Steinberg, Esq.
Inman, Weiss & Steinberg
9720 Wilshire Blvd.
Penthouse Suite
Beverly Hills, CA 90212

James R. Jurecka
Suite 2610
2029 Century Park East
Los Angeles, CA 90067

/s/ Raphael O. Gomez
RAPHAEL O. GOMEZ

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 1990, a copy of the Proposed Order Re; State Secrets Privilege Field In Camera and Under Seal was mailed, postage prepaid, to:

Matthew S. Steinberg, Esq.
Inman, Weiss & Steinberg
9720 Wilshire Boulevard, Penthouse
Beverly Hills, California 90212

James R. Jurecka, Esq.
2029 Century Park East
Suite 2620
Los Angeles, California 90067

/s/ Eleanor McKenzie

APPENDIX C

FILED
FEBRUARY 13, 1991
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ERWIN RAUTENBERG, et al.,	)	No. 90-70177
	)	
Petitioners,	)	D.C. No. CV-81-4103-RAG
	)	
vs.	)	Central California
	)	
UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA,	)	ORDER UNDER SEAL
	)	
Respondent,	)	
	)	
and	)	
	)	
UNITED STATES OF AMERICA, et al.,	)	
	)	
Real Parties in Interest.	)	
	)	
	)	

Before: CANBY, WIGGINS and BRUNETTI, Circuit Judges

The supplemental emergency petition for Writ of Mandamus is denied. See United States v. Reynolds,

345 U.S. 1 (1953); Bauman v. United States District Court, 557 F.2d 650 (9th Cir. 1977).

APPENDIX C

APPENDIX D

FILED
APR - 1 1991
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ERWIN RAUTENBERG, et al., Petitioners,	No. 90-70177
vs.	D.C. No. CV-81-4103-RAG Central California
UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA,	O R D E R UNDER SEAL
Respondent,	
and	
UNITED STATES OF AMERICA, et al.,	
Real Parties in Interest.	

Before: CANBY, WIGGINS and BRUNETTI, Circuit Judges

On February 13, 1991, this court issued an order denying the supplemental petition for writ of

mandamus. Petitioners seek reconsideration of that order on the ground that their reply brief was not received by the court before the petition was decided. We grant the motion for reconsideration on that ground. Having considered petitioners' reply brief in support of the supplemental petition, we deny the supplemental petition for writ of mandamus.

APPENDIX E

FILED
APR 29 1991
CLERK, U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ERWIN RAUTENBERG, et al., Petitioners,	No. 90-70177
vs.	D.C. No. CV-81-4103-RAG
UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, Respondent,	O R D E R
and	
UNITED STATES OF AMERICA, et al., Real Parties in Interest.	

Before: CANBY, WIGGINS and FERNANDEZ, CIRCUIT JUDGES

The panel has voted unanimously to deny the petition for rehearing and suggestion for rehearing en banc.

APPENDIX E

The full court has been advised of the suggestion for rehearing en banc and no judge of the court has requested a vote to rehear the matter en banc.

The petition for rehearing is hereby denied and the suggestion for rehearing en banc is rejected.